IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.12604 of 1998

Dated: 14-02-2007

Between:

Revenue Employees Co-operative Housing Society Ltd.,
Karimnagar, Karimnagar District,
rep. by Mohd. Mustaq Hussain
s/o Mohd. Sarvar, aged about 55 years,
r/o Karimnagar,
Karimnagar District.

... Petitioner

and

1. The Government of Andhra Pradesh,
   rep. by its Secretary,
   (Revenue-V) Department,
   Secretariat Buildings,
   Hyderabad and two others.

... Respondents

ORDER:

This writ petition is filed seeking *mandamus* to declare the orders of the first respondent issued in Memo No.76884/Assn.I-3/95-3,

dated
25-03-2006 as illegal and arbitrary and consequently to direct the respondents to fix the market value of the land in an area of Ac.11-02 guntas in Sy.No.1026 of Karimnagar Town, Karimnagar District in terms of the orders of the third respondent, dated 30-06-1981 in B5/1330/81.

2. In the affidavit filed in support of the petition it is stated that the petitioner-society was registered under Andhra Pradesh Cooperative Societies Act, 1964 and is having about 550 members. On a representation made by the petitioner-society, the third respondent, vide proceedings dated 30-06-1981 directed the Tahsildar, Karimnagar to hand over an extent of Ac.11-02 guntas in Sy.No.1026 at Karimnagar town to the then President of the petitioner-society for the purpose of providing house sites to the revenue employees working at Karimnagar.

In pursuance of the directions of the third respondent, the petitioner society deposited an amount of Rs.1,000/- towards provisional market value through challan bearing No.1825, dated 07-8-1981 and the then Tahsildar, Karimnagar delivered possession of the said land to the petitioner society and since then the petitioner has been in possession and enjoyment of the said land.

3. It is stated that when the first respondent vide Memo No.899/VI/ 83-5, dated 16-01-1985 passed orders canceling the allotment of land on market value in favour of the petitioner, the petitioner filed W.P.No.1858 of 1985 and this Court on 25-10-1988 allowed the writ petition and remanded the matter to the Government with a direction to the first respondent to pass orders afresh after hearing the parties. The first respondent vide G.O.Ms.No.829 Revenue (Assignment-II)

Department, dated 25-08-1993 remanded the said matter to the third respondent for a detailed enquiry into the matter afresh and to pass orders according to law. The third respondent, without communicating any orders to the petitioner, addressed a letter bearing No.B2/995/93, dated 02-11-1995 to the Secretary to the Government, Revenue (Assignment-II) Department, Andhra Pradesh, Hyderabad stating that it would be better to reserve the said land for Government purpose like office, hostel, residential school etc., depending on future use. It is stated that the first respondent without giving any opportunity to the petitioner society to make any representation, vide impugned Memo dated 25-03-1996, accepted the proposal of the third respondent. It is further stated that the third respondent vide letter No.B2/2343/96, dated 17-01-1997 informed the President of the petitioner-society about the reservation of the site in question for public purposes like Government office, hospital, residential school etc.

3. Heard learned counsel for the parties.

4. In the earlier round of litigation, the petitioner was constrained to file W.P.No.1858 of 1985 and in the said writ petition, this Court categorically held that the action on the part of the authorities in taking back the lands or resuming the lands, is without notice to the petitioner and thus while quashing the impugned notice therein, directed the Government to hold an enquiry afresh after giving sufficient opportunity to all the parties concerned and pass appropriate orders. It appears that the Government directed the Collector to hold an enquiry and in turn the Collector held an enquiry and submitted a report to the Commissioner, who in turn submitted the said report to the Government and the Government passed the order impugned.

5. The contention of the learned counsel for the petitioner is that

the said order passed by the Government is without notice to the petitioner as directed by this Court in W.P.No.1858 of 1985, appears to be correct. May be it is true that as per the contents of the counter affidavit that the Collector held a joint inspection in the presence of all the parties concerned including the petitioner and submitted the report, but that alone is not sufficient for the Government to pass the impugned order. When once a report is called for and is received from the Collector, the Government as directed by this Court should have furnished a copy of the said report to the petitioner and asked him to offer his explanation before passing the impugned order.

6. Accordingly, the writ petition is allowed and the impugned order dated 25-03-1996 is hereby set aside directing the Government to furnish a copy of the said enquiry report of the Collector to the petitioner and call for an explanation and then pass appropriate orders after affording personal hearing to the petitioner. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. Since the petitioner-society has been in continuous possession of the same, the respondents are directed not to dispossess it pending the said enquiry.

JUSTICE GOPALAKRISHNA TAMADA

Dt.14-02-2007
GLV